

PATENT  
ATTORNEY DOCKET NO. 06727/006001Certificate of Transmission: Date of Transmission: March 31, 1999

I hereby certify under 37 CFR 1.8(a) that this correspondence is being transmitted to Examiner Gucker at 703-308-4426, Assistant Commissioner of Patents, Washington, D.C. 20231.

Alakananda Chatterjee  
Printed name of person transmitting correspondenceAlakananda Chatterjee  
Signature of person transmitting correspondence

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert A. Murgita

Art Unit: 1645

56 3/31/99

Serial No.: 08/879,469

Examiner: S. Gucker

Filed: June 20, 1997

Title: RECOMBINANT HUMAN ALPHA-FETOPROTEIN AS A CELL  
PROLIFERATIVE AGENTAssistant Commissioner of Patents  
Washington, D.C. 20231PETITION TO ACCORD FILING DATE UNDER 37 CFR §1.8(b)  
FOR CORRESPONDENCE MAILED BUT NOT RECEIVED BY THE PTO

Under 37 CFR §1.8(b), applicant hereby petitions to accord a filing date of September 30, 1998 to the enclosed Reply to Office Action (with cited reference), Notice of Appeal, and Petition for Extension of Time, which were apparently received by the PTO, but not received by the Examiner. Please note, the enclosed correspondence inadvertently referred to Serial No. 08/377,316 instead of Serial No. 08/879,469. Applicant regrets any confusion this may have caused. However, applicant submits that the correspondence should have reached the correct file since 08/879,469 is a direct File Wrapper Continuation of 08/377,316 and it is applicant's understanding that according to

PTO practice both serial numbers would in fact be contained in the same physical file and the error should have been immediately apparent.

Under 37 CFR §1.8(b)(1), the undersigned became aware that the Examiner did not receive the correspondence on March 31, 1999, when Examiner Gucker telephoned the attorney of record's office. This petition is being filed promptly after the attorney of record became aware that the Examiner did not receive the correspondence.

Under 37 CFR §1.8(b)(2), the following documents are submitted as proof that the correspondence was filed on September 30, 1998:

1. A copy of the correspondence as filed, including an executed certificate of mailing signed by Lisa Fothergill on September 30, 1998.
2. A copy of the return postcard and checks filed with the correspondence, as well as a copy of the returned postcard and cashed checks showing that the correspondence was received by the PTO.
3. A statement from Lisa Fothergill, attesting on the basis of personal knowledge that the correspondence was filed on September 30, 1998.

Applicant submits that the correspondence was filed September 30, 1998, and requests that date be accorded as the filing date.

Further, based on the Notice of Appeal filed September 30, 1998 and extensions therefrom, applicant filed a Continued Prosecution Application (CPA) on March 30, 1999. Copies of the CPA, the Petition for Extension of Time to and including March 30, 1999, the small entity statement, the check for the filing fee, the check for the extension of time, and the return postcard are also enclosed.

Applicant submits that the application is presently pending and requests that the

amendments made September 30, 1998 be entered into the application prior to the next office action.

If there are any charges, or any credits, please apply them to Deposit Account No.

03-2095.

Respectfully submitted,

Date: March 31, 1999

Susan M. Michaud  
Paul T. Clark      Susan M. Michaud  
Reg. No. 30,162    Reg. No. 42,885

Clark & Elbing LLP  
176 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045

\\Cocserver\documents\06727\06727.006001 Petition to accord filing date to first class mailed correspondence that PTO never received

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: 3/31/99

Lisa Fothergill  
Lisa Fothergill

Clark & Elbing LLP  
176 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045

\\Ceserver\documents\06727\06727.006001 Declaration attesting to filing date of first class correspondence

#23 4/15/99  
T. GrayPATENT  
ATTORNEY DOCKET NO. 06727/006001

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<u>Alakananda Chatterjee</u>	<u>Alakananda Chatterjee</u>
Printed name of person transmitting correspondence	Signature of person transmitting correspondence

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PROLIFERATIVE AGENTAssistant Commissioner of Patents  
Washington, D.C. 20231

DECLARATION OF LISA FOTHERGILL  
ATTESTING TO FILING DATE UNDER 37 CFR §1.8(b)  
FOR CORRESPONDENCE MAILED BUT NOT RECEIVED BY THE PTO

1. I, Lisa Fothergill, am an employee of Clark & Elbing LLP.
2. I signed the certificate of mailing on the Reply to Examiner's Action filed September 30, 1998, copies of which are enclosed.
3. I hereby attest that I had reasonable basis to believe the correspondence would be mailed on that date.
4. I hereby attest that I personally deposited the correspondence with the U.S. Postal Service on that date.